

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, DC 20579

In the Matter of the Claim of

FOTINI D. KALES
PAULINE D. KOSTAKOS
ELEFThERIA L. DEMITRIOS

Claim No. ALB-318

Claim No. ALB-319

Claim No. ALB-322

Decision No. ALB-309

Against the Government of Albania

Counsel for claimant FOTINI D. KALES:

John G. Makris, Esquire

Counsel for claimant PAULINE D. KOSTAKOS:

Aldo Savino, Esquire

Hearing on the Record held on March 12, 1999.

FINAL DECISION

These claims against the Government of Albania are based upon the alleged confiscation of real and personal property located in Grazdahni (Griasdiani), District of Gjirokaster.

By Proposed Decision issued December 15, 1998, the Commission denied these claims, on the ground that claimants had failed to establish the ownership by their predecessor, Leonidas Demitrios (husband of ELEFThERIA DEMITRIOS and father of FOTINI D. KALES and PAULINE D. KOSTAKOS), of the real property for which they had claimed, their ownership

of the personal property for which they had claimed, or the date and circumstances of the alleged confiscation of the real and personal property by the Albanian Communist regime.

By letter dated January 16, 1999, claimant FOTINI D. KALES, through her counsel, objected to the Proposed Decision, stating that she would submit additional evidence that she believed would be sufficient to establish the ownership, confiscation and value of the property which was the subject of her and her sister's and mother's claims. This was followed by a further letter from claimant's counsel dated February 25, 1999, with which were enclosed two affidavits, one executed by the claimant and the other executed by one Professor Nikolas A. Stavrou, who states that he is a native of Albania and a specialist in Albanian affairs who teaches at Howard University in Washington, DC.

In her affidavit, claimant FOTINI D. KALES avers that her family had owned a two-story stone house with a storage space beneath the first floor. She states that the house had two fireplaces on each floor for heating, with kerosene lamps for light and water carried by hand from a spring-fed well outside. The house is said to have been one of the two largest in the neighborhood. According to claimant's description, the house was surrounded by a stone wall, within

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which was a small cottage or shack, where the family had lived after the destruction of their house by German military forces in the summer of 1944, and an oven in which they cooked meals and baked bread, and two fig trees, a quince tree, and some grapevines. Although the Commission held on the basis of claimant's father's statements that the family's house had indeed been destroyed by German military forces (*Claim of LEONIDAS DEMITRIOS*, Claim No. W-6488, Decision No.W-19974 (1967)), she avers that the walls had remained standing and that it thus had been possible to rebuild the house shortly after the war. Claimant further avers that the family owned a total of 80 "stremata" of land of which 10 stremata was near their house, with the remaining 70 stremata, consisting of farmland, being located further away. She states the belief that a "strema" is equivalent to about 3 acres.

In addition to the house and land, claimant avers that after the family's escape from Albania in 1950, the Communist authorities not only confiscated their house and land but also seized personal property including "blankets, beds, a brass bed, a low table, a record player (crank style), a trousseau, pots and pans, various household goods, silverware, dishes and the like."

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For his part, Professor Stavrou confirms in his affidavit that claimants' predecessor, Leonidas Demitrios, had owned the two-story stone house which is the subject of the present claims, and asserts that he had also owned "one (sic) 80 acres consisting of arable land [and] an indeterminate amount of pasture land." He further avers that the Albanian Communist regime expropriated the property "on or about 1949" without payment of compensation to the owner, and that the regime thereafter derived an income from the property "conservatively estimated" at approximately \$600 per year.

Claimants have not requested an Oral Hearing in which to present their objection. Accordingly, the Commission will consider their objection in a Hearing on the Record, based on a de novo review of all of the evidence submitted in their claims.

Based on the record now before it, including its decision in *Claim of LEONIDAS DEMITRIOS, supra*, the Commission now finds that claimants' predecessor, Leonidas Demitrios, who became a United States citizen by naturalization on July 24, 1929, and died intestate in Michigan on April 22, 1989, owned a two-story house, personal property, and 80 strem of land in the village of Grazdhani, Albania, which was confiscated by the Albanian

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Communist regime in mid-1950, following the claimants' escape from the country. For lack of a precise date, the Commission will deem the confiscation to have occurred as of July 1, 1950. The Commission further finds that upon the death of Leonidas Demitrios in Michigan in 1989, claimants inherited his claim for the resulting property loss in accordance with the intestate law of the State of Michigan, with FOTINI D. KALES and PAULINE D. KOSTAKOS each inheriting a one-fourth share and ELEFThERIA L. DEMITRIOS the remaining on-half share. At that time, all three claimants were United States nationals domiciled in the United States: FOTINI D. KALES and PAULINE D. KOSTAKOS acquired United States nationality by birth on Personally Identifiable Information Redacted under 5 U.S.C. §552(b)(6), and Personally Identifiable Information Redacted under 5 U.S.C. §552(b)(6), and ELEFThERIA L. DEMITRIOS was naturalized as a United States national on January 21, 1958.

Claimants have asserted that the property for which they have claimed had an estimated value of \$29,000 at the time of loss, including some \$8,700 that is said to have represented the value of personal property, allegedly consisting of, among other things, the wedding trousseaus of FOTINI D. KALES and PAULINE D. KOSTAKOS, and \$2,000-worth of furniture, as well as livestock consisting of "150 sheep, 30 goats, 2 cows, an ox, and a donkey." The

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Commission notes, however, that in his Statement of Claim filed in 1964, Leonidas Demitrios made claim only for 25 sheep and did not mention any other livestock. Moreover, although claimants assert that the land on which they raised crops, harvested fruit, and grazed farm animals covered 80 "stremata," which consisted either of 80 acres (plus, according to Professor Stavrou, an "indeterminate amount of pasture land") or 240 acres, the Commission has determined that a "strema" in fact was the same as a *dynym*, the standard unit of area measurement for farmland used in Albania, and was equivalent to 0.1 hectare or 0.25 acre. This fact is also verified by the "Confirmation" dated March 18, 1996, by three residents of Griazdani, submitted by FOTINI D. KALES, which states that Leonidas Demitrios had owned "80 quarters of an acre of pasture and cultivated land."

Based on the foregoing, the Commission finds that the farmland and pasture owned by Leonidas Demitrios amounted to 8 hectares or 20 acres. The Commission is not persuaded that this amount of land would have been sufficient to support as many as 160 sheep and goats, as well as tenant farmers, as the claimants have asserted, in addition to their family's own food needs. Nor is the Commission persuaded that they would have owned household personal property

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with a value as high as that asserted, given the destruction of their house and its contents by German forces only 6 years before. However the Commission is willing to assume, as it did in Leonidas Demitrios's war damage claim, that they owned personal property and livestock with a value of at least 25 percent of the value of their (rebuilt) house when their house and land was confiscated in 1950. In addition, the Commission is willing to assume that FOTINI D. KALES and PAULINE KOSTAKOS each had a wedding trousseau which together with its contents had a value of \$1,000.

Based upon the entire record, and comparing the property here in issue with that for which values have been determined in other, similar claims, the Commission finds that at the time of confiscation, claimants' family's house had a value of \$2,000, their household personal property and livestock had a value of \$500, and that their 20 acres of land and pasture had a value of about \$300 per acre, or \$6,000. Accordingly, for her inherited share in this loss, ELEFThERIA L. DEMITRIOS is entitled to an award in the principal amount of \$4,250.00. For their inherited shares in the loss, FOTINI D. KALES and PAULINE D. KOSTAKOS are respectively entitled to awards in the principal amount of \$2,125.00, and they are also entitled to principal awards of \$1,000.00.

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each for the loss of their wedding trousseaus, thereby bringing the principal amounts of their awards to \$3,125.00. These awards shall date from July 1, 1950.

In accordance with applicable principles of international law and its decisions in previous claims programs, the Commission further concludes that claimants are entitled to interest as part of their awards, amounting to 6 percent simple interest per annum from the date of loss to the effective date of the Settlement Agreement. Accordingly, claimants FOTINI D. KALES and PAULINE D. KOSTAKOS are also entitled to interest awards of 268.8 percent of their principal awards, or \$8,400.00, and claimant ELEFThERIA L. DEMITRIOS is entitled to an interest award of 268.8 percent of her principal award, or \$11,424.00.

Under the terms of the United States-Albania settlement agreement, the United States Government has agreed to advise the Albanian authorities of the issuance of the Commission's awards so as to prevent any double recovery. A copy of this decision will therefore be forwarded to the Albanian government in due course.

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The Commission therefore withdraws the denial set forth in the Proposed Decision in these claims, and makes the following awards, which will be certified to the Secretary of the Treasury for payment in accordance with sections 5, 7, and 8 of Title I of the ICSA (22 U.S.C. §§1624, 1626, and 1627). This constitutes the Commission's final determination in these claims.

A W A R D S

Claimant, FOTINI D. KALES, is entitled to an award in the principal amount of Three Thousand One Hundred Twenty-Five Dollars (\$3,125.00), plus interest from July 1, 1950, to April 18, 1995, in the amount of Eight Thousand Four Hundred Dollars (\$8,400.00), for a total award of Eleven Thousand Five Hundred Twenty-Five Dollars (\$11,525.00).

Claimant, PAULINE D. KOSTAKOS, is entitled to an award in the principal amount of Three Thousand One Hundred Twenty-Five Dollars (\$3,125.00), plus interest from July 1, 1950, to April 18, 1995, in the amount of Eight Thousand Four Hundred Dollars (\$8,400.00), for a total award of Eleven Thousand Five Hundred Twenty-Five Dollars (\$11,525.00).

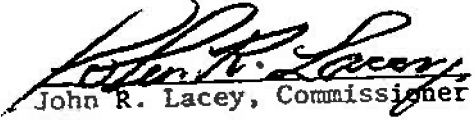
Claimant, ELEFThERIA L. DEMITRIOS, is entitled to an award in the principal amount of Four Thousand Two Hundred Fifty Dollars (\$4,250.00),

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plus interest from July 1, 1950, to April 18, 1995, in the amount of Eleven
Thousand Four Hundred Twenty-Four Dollars (\$11,424.00), for a total award
of Fifteen Thousand Six Hundred Seventy-Four Dollars (\$15,674.00).

Dated at Washington, DC and
entered as the Final Decision
of the Commission.

MAR 12 1999


John R. Lacey, Commissioner


Richard T. White, Commissioner

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Counsel for claimant FOTINI D. KALES:

John G. Makris, Esquire

Counsel for claimant PAULINE D. KOSTAKOS:

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PROPOSED DECISION

These claims against the Government of Albania are based upon the alleged confiscation of real and personal property located in Grazdahni (Griasdiani), District of Gjirokaster.

As a preliminary matter, the Commission notes that these claims were received after its deadline for filing of claims of December 29, 1995. However, the Commission nevertheless has decided to accept the claims for consideration.

Under section 4(a) of Title I of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render final decisions with respect to claims of . . . nationals of the United States included within the terms of . . . any claims agreement on and after March 10, 1954, concluded between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) . . . providing for the settlement and discharge of claims of . . . nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof.

22 U.S.C. 1623(a) (1994).

The Governments of the United States and Albania concluded an agreement for en bloc settlement of claims of United States nationals against Albania on March 10, 1995. *Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, March 10, 1995 (entered into force April 18, 1995) ("Settlement Agreement"). Claims covered by the Settlement Agreement are

the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement[.]

Settlement Agreement, Article 1(a).

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The claimants herein seek compensation for the alleged expropriation by the Government of Albania in 1950 of over 80 acres of agricultural land, a three-story house, a free-standing cottage, livestock, and personal property including two dowries, all located in the village of Grazdahni, District of Gjirokaster. Claimants assert that the real property was owned by Leonidas Demitrios, who was respectively their father and husband, and that they owned the personal property, and that all of it was confiscated by the Albanian government in mid-1950 (when they escaped to Greece from Albania). According to the claimants, the family was told that when the local government seized the property after their flight, a sale was held on the spot and their personal property was sold to the local villagers. Claimants believe that the money received from the sale was either kept by the local officials or sent to the central government. In addition, claimants state that they derived an income of approximately \$600 per year from the grazing lands and that crops grown on the land by tenant farmers provided an additional income of \$1,200 per year.

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In support of their claims, claimants have submitted evidence of their United States nationality as well as a copy of the death certificate of Leonidas Demitrios. In addition, they have submitted a statement from individuals purportedly familiar with the circumstances of confiscation.

The Commission notes that Leonidas Demitrios previously filed a claim in the Commission's General War Claims Program, conducted from July 15, 1963, to May 17, 1967. In that program, the Commission made an award to Mr. Demitrios for the destruction of a six-room rural dwelling house without utilities and for certain personal property that was destroyed as a result of military operations of war. *Claim of LEONIDAS DEMITRIOS, Claim No. W-6488, Decision No. W-19974 (1967).**

*According to notes in the War Claims file, Mr. Demitrios and his wife, claimant ELEFThERIA DEMITRIOS, appeared in person in New York on May 23, 1966, in connection with the loss of the property in question. Current claimant ELEFThERIA DEMETRIOS testified that she was an eye-witness to the loss, that she and her daughters were ordered out of the house which was then destroyed in front of them. She further testified that some time later, villagers erected a shack for her and her daughters to stay in. The notes in the file are silent as to the extent the demolished house may have been rebuilt or occupied by the family.

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Claimants have stated on their current claim forms that, after the destruction caused by the German military forces, the house was rebuilt and that "it was in excellent condition" when they fled in 1950. However, they have submitted no evidence to substantiate that assertion. Claimants FOTINI D. KALES and PAULINE D. KOSTAKOS contend that they are entitled to compensation under the Settlement Agreement because they qualify as United States nationals by birth and have submitted copies of their Certificates of Citizenship to establish their United States nationality. Claimant ELEFThERIA DEMTRIOS has established that she acquired United States nationality by naturalization in 1958, prior to her husband's death in 1989. Furthermore, claimants state, through counsel, that after the death of Leonidas Demitrios intestate in Michigan in 1989, they qualified as his heirs at law.

The Commission has carefully reviewed the evidence both in the War Claims file as well as in the current record. Unfortunately, however, there is no credible independent evidence to corroborate the assertion that Mr. Demitrios owned 80 acres of land and other improved property in the village of Gradzahni, District of Gjirokaster. Moreover, the Commission's independent consultant in

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Albania has thus far been unable to verify the ownership of any property by Leonidas Demitrios in that general area. Nor is there any evidence that the house that was destroyed in 1944 was rebuilt to the extent asserted by the claimants. Similarly, other than the unsworn statements of certain individuals as to ownership and attachment of claimants' property, there is no other corroborating evidence to substantiate their ownership of any personal property or the nature or value of such property.

Section 531.6(d) of the Commission's regulations provides:

The claimant shall be the moving party, and shall have the burden of proof on all issues involved in the determination of his or her claim.

45 C.F.R. 531.6(d) (1997).

The Commission finds that the claimants have not met the burden of proof in that they have failed to submit supporting evidence to establish Leonidas Demitrios' ownership of the agricultural property and house on which these claims are based, or their ownership of the personal property for which they have claimed. In the absence of such evidence, the Commission must conclude that

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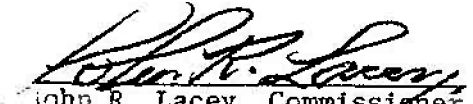
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claimants' claims are not compensable under the terms of the Settlement Agreement. The claims therefore must be and are hereby denied.

Dated at Washington, DC and entered as the Proposed Decision of the Commission.

DEC 15 1998


John R. Lacey, Commissioner


Richard T. White, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (1997).

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